



General Assembly

January Session, 2009

Amendment

LCO No. 8001

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Offered by:

SEN. MCKINNEY, 28th Dist.

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To: Subst. Senate Bill No. 913

File No. 540

Cal. No. 386

(As Amended by Senate Amendment Schedule "A")

"AN ACT CONCERNING UNITED STATES SENATE VACANCIES."

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- 1 After the last section, add the following and renumber sections and
2 internal references accordingly:
- 3 "Sec. 501. (NEW) (*Effective from passage*) (a) There is established a
4 Legislative Ethics and United States Senate Vacancies Committee that
5 shall review and adjudicate any charges brought against a member of
6 the House of Representatives or the Senate pursuant to subsection (f)
7 of this section for acts that violate the Legislative Code of Conduct
8 described in section 502 of this act and that shall adopt
9 recommendations concerning the filling of any vacancy in the office of
10 senator in Congress.
- 11 (b) The six members of the Legislative Ethics and United States
12 Senate Vacancies Committee shall be appointed as follows: (1) One by

13 the president pro tempore of the Senate; (2) one by the speaker of the
14 House of Representatives; (3) one jointly by the president pro tempore
15 of the Senate and the speaker of the House of Representatives, who
16 shall serve as cochair of the committee; (4) one by the minority leader
17 of the Senate; (5) one by the minority leader of the House of
18 Representatives; and (6) one jointly by the minority leader of the
19 Senate and the minority leader of the House of Representatives, who
20 shall serve as cochair of the committee. Members of the committee
21 shall serve two year terms concurrent with their term of office.

22 (c) A quorum of the committee shall be required to conduct any
23 business. Four members of the committee shall constitute a quorum.
24 The committee shall function without regard to recess periods or
25 adjournment.

26 (d) The powers and duties of the Legislative Ethics and United
27 States Senate Vacancies Committee shall consist of the following: (1)
28 Issuing written advisory opinions upon the written request of any
29 member of the Senate or House of Representatives regarding the
30 Legislative Code of Conduct described in section 502 of this act; (2)
31 receiving complaints of any alleged violation of the Legislative Code of
32 Conduct by a member and referring complaints to the Chief Court
33 Administrator to enable a judge trial referee to determine whether
34 probable cause exists to believe that a violation of such code has
35 occurred; (3) investigating complaints of any alleged violation of the
36 Legislative Code of Conduct by a member if a judge trial referee makes
37 a determination that probable cause exists to believe that a violation of
38 such code has occurred; (4) maintaining a record of its proceedings in
39 addition to copies of advisory opinions issued by the committee in
40 order to achieve consistency in recommendations and the issuance of
41 advisory opinions; and (5) adopting recommendations for the filling of
42 any vacancy in the office of senator in Congress.

43 (e) Any member of the General Assembly may request, in writing,
44 an advisory opinion regarding the Legislative Code of Conduct
45 generally or its applicability to a real or hypothetical situation. Any

46 advisory opinion issued by the Legislative Ethics and United States
47 Senate Vacancies Committee shall be made in writing and publicly
48 available for review, provided any request by a member for an
49 advisory opinion shall remain confidential. Any member who acts in
50 good faith upon any advisory opinion issued by the Legislative Ethics
51 and United States Senate Vacancies Committee concerning such
52 member shall not be subject to discipline by their respective chamber
53 with regard to the matters covered by such advisory opinion provided
54 there was a full disclosure to the committee of all facts necessary for
55 issuance of the advisory opinion.

56 (f) (1) A complaint may be filed with the Legislative Ethics and
57 United States Senate Vacancies Committee by any member of the
58 General Assembly.

59 (2) In order for a complaint to be valid, it shall: (A) Be in writing; (B)
60 state the name of the person filing the complaint; (C) state the name of
61 the member who is alleged to have committed a violation of the
62 Legislative Code of Conduct; (D) set forth allegations that, if true,
63 would constitute a violation of the Legislative Code of Conduct. Such
64 allegations shall be stated with sufficient clarity and detail to enable
65 the committee to make a finding; (E) state the date of the alleged
66 violation; (F) include a statement that the allegations are true to the
67 complainant's own knowledge or that the complainant believes them
68 to be true; and (G) be signed by the complainant under penalty of
69 perjury.

70 (3) If the complaint is deficient as to form, the complaint shall be
71 returned to the complainant with a statement that indicates the nature
72 of the deficiency. If a complaint, previously found to be deficient as to
73 form, is refiled with the committee in a valid form, the party charged
74 in the complaint shall be provided with a copy of the new complaint.
75 Any subsequent amendments to a complaint that are filed with the
76 committee shall also be served or personally delivered to the member
77 charged in the complaint. If the complaint is sufficient as to form, the
78 committee shall review the complaint to determine whether the

79 complaint states a charge that may be investigated by the committee.

80 (4) The committee shall promptly send a copy of a valid complaint
81 to the member alleged to have committed the violation, who shall
82 thereafter be designated as the respondent.

83 (5) If the committee determines that a complaint is not valid, the
84 complaint shall be dismissed and returned to the complainant with a
85 notice of dismissal stating the reason or reasons for the dismissal.

86 (g) (1) If the committee determines that a complaint is valid, the
87 committee shall request that the Chief Court Administrator appoint a
88 judge trial referee to review the allegations contained in the complaint
89 and determine whether there is probable cause to believe that a
90 violation of the Legislative Code of Conduct has occurred and whether
91 an evidentiary hearing on the complaint should be held by the
92 committee. Any such review and subsequent evidentiary hearing shall
93 be closed to the public. The records and other documents used in the
94 course of any such review or evidentiary hearing shall not be subject to
95 disclosure under chapter 14 of the general statutes, except if the
96 respondent requests such disclosure.

97 (2) During any review or hearing conducted pursuant to
98 subdivision (1) of this subsection, the respondent shall have the right
99 to appear and be heard and to offer any information that may tend to
100 disprove any such allegation. The respondent shall also have the right
101 to be represented by legal counsel and to examine and cross-examine
102 witnesses. Any finding of probable cause to believe the respondent is
103 in violation of any provision of the Legislative Code of Conduct shall
104 be made by a judge trial referee not later than thirty days after the
105 committee refers the complaint alleging a violation, except that such
106 thirty-day period shall not apply if the judge trial referee determines
107 that good cause exists for extending such limitation period.

108 (3) If a judge trial referee determines that probable cause exists to
109 believe that the respondent violated the Legislative Code of Conduct,
110 the committee shall initiate hearings to determine whether there has

111 been a violation of the Legislative Code of Conduct. Any such hearing
112 shall be initiated by the committee not later than thirty days after the
113 judge trial referee's determination of probable cause. The committee
114 may grant one fifteen-day extension for the starting date of such
115 hearing upon the mutual consent of the complainant and the
116 respondent. The final disposition of any violation that the committee
117 has found to have been established by clear and convincing evidence
118 shall be made not later than fourteen days after the conclusion of the
119 hearing on the complaint.

120 (4) The committee shall receive all admissible evidence, determine
121 any factual or legal issues presented during the hearing, and make
122 findings of fact based upon evidence received. Hearings shall be open
123 to the public. The rules of evidence shall apply in any such hearing
124 before such committee.

125 (5) For an allegation to be proved, a majority of the committee shall
126 vote that it is proved by clear and convincing evidence. The
127 cochairpersons of the committee shall dismiss each allegation that is
128 not proved by clear and convincing evidence. If a majority of the
129 committee votes that a count was not proved by clear and convincing
130 evidence, a motion to reconsider such vote may only be made by a
131 member of the committee who voted that the count was not proved by
132 clear and convincing evidence.

133 (6) Upon the conclusion of any such hearing, the committee shall
134 make a recommendation to the respective chamber as to what action it
135 deems appropriate and that such recommendation shall be one of the
136 following: Expulsion, censure, reprimand or no action. The
137 committee's final recommendation shall be in the form of a resolution
138 for approval or rejection by the respective chamber.

139 (h) (1) A member of the Legislative Ethics and United States Senate
140 Vacancies Committee shall be disqualified from participating in any
141 proceeding before the committee involving a complaint against such
142 member. If a complaint is filed against a member, the appointing

143 authority shall appoint another member to serve in that member's
144 place while the complaint is under review. Any member of the
145 committee who is found to have violated the Legislative Code of
146 Conduct shall be ineligible to serve again as a member of the
147 committee.

148 (2) A member of the committee may recuse himself or herself from
149 participating in any investigation of the conduct of a member upon
150 submission of a written statement that he or she cannot render an
151 impartial and unbiased decision in the matter.

152 (3) If a member of the committee is disqualified or recuses himself
153 or herself from participating in any committee proceeding, the
154 appointing authority shall appoint a replacement member during the
155 period of the original member's disqualification or recusal.

156 (i) Upon receipt of the committee's final recommendation, the
157 respective chamber shall: (1) Consider the recommendation of the
158 committee within fourteen days; and (2) by a majority vote of such
159 chamber, either accept, dismiss or alter such recommendation.

160 (j) If the committee recommends expulsion, acceptance of such
161 recommendation shall require a two-thirds vote of all members of the
162 respective chamber. Acceptance of a committee recommendation for
163 reprimand or censure shall require a majority vote of the members of
164 the respective chamber.

165 (k) For purposes of this section:

166 (1) "Reprimand" is normally the appropriate sanction when the
167 respondent commits a single, relatively minor act that causes a
168 reasonable person to conclude that (A) the respondent, in the
169 performance of his or her official duties, has afforded undue influence
170 to another person or was unduly influenced by another person, or (B)
171 the respondent is likely to act or fail to act, in his or her official duties,
172 as a result of the undue influence exercised by another person or
173 afforded to another person. Such punishment may include a denial of

174 privileges of office. The recommendation for a reprimand is a public
175 record.

176 (2) "Censure" is normally the appropriate sanction when the
177 respondent commits more serious or repeated acts that constitute a
178 legal or moral wrong. A member who is censured shall not serve in
179 any leadership position and shall not serve as the chairperson or
180 cochairperson of any standing or interim legislative committee for the
181 remainder of that member's pending term in office. The respondent
182 shall be present in the chamber when the chamber considers and votes
183 on the resolution.

184 (3) "Expulsion" is for very serious breaches of legal or ethical
185 responsibilities of members that directly relate to their duties as
186 members of the General Assembly, and that impugn the integrity of
187 the General Assembly, reflect adversely on the General Assembly or
188 otherwise undermine public trust in the institution of the General
189 Assembly.

190 Sec. 502. (NEW) (*Effective from passage*) There is established a
191 Legislative Code of Conduct that consists of the following provisions:
192 Members of the General Assembly shall conduct themselves to justify
193 the confidence placed in them by the people and, by personal example
194 and admonition to colleagues, shall maintain the integrity and
195 responsibility of their office. In addition to the other rules of the
196 General Assembly, no member shall: (1) Engage in any conduct that
197 constitutes a legal wrong that materially impairs the ability of the
198 member to perform the duties of his or her office or substantially
199 impairs public confidence in the legislature. For purposes of this code,
200 "legal wrong" includes, but is not limited to, sexual harassment,
201 repeated violations of the state penal code and discrimination
202 prohibited under chapter 814c of the general statutes; (2) engage in any
203 conduct that intentionally violates any provision of the code of ethics
204 for public officials as set forth in chapter 10 of the general statutes. For
205 purposes of this section, a member of the General Assembly is
206 presumed to have intentionally violated the code of ethics only after

207 such a determination by the Office of State Ethics; or (3) use or attempt
208 to use his or her official position to secure unwarranted privileges or
209 exemptions for himself or herself or others.

210 Sec. 503. (NEW) (*Effective from passage*) Any recommendation
211 adopted by the Legislative Ethics and United States Senate Vacancies
212 Committee concerning the filling of a vacancy in the office of senator
213 in Congress shall be submitted to the entire General Assembly for
214 approval."